

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BRIAN LACOMCHEK, :
Plaintiff :
v. : Case No. 3:10-cv-25-KRG-KAP
JEFFREY A. BEARD, et al., :
Defendants :
:

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

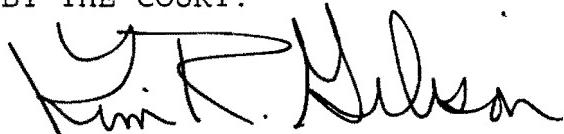
The Magistrate Judge filed a Report and Recommendation on September 10, 2010, docket no. 15, screening the complaint under 28 U.S.C. § 1915A and recommending that some portions of the complaint be served and others dismissed for failure to state a claim. The Magistrate Judge filed another Report and Recommendation on March 10, 2011, docket no. 31, recommending that defendant Salemeha's motion to dismiss, docket no. 24, be denied.

In both cases the parties were notified pursuant to 28 U.S.C. § 636(b)(1), that they had fourteen days to file written objections to the Report and Recommendation. Plaintiff filed objections to the earlier Report and Recommendation that, to the extent they do not reflect simple disagreement with his course of treatment, allege only negligence. docket no. 16.

Upon de novo review of the record of this matter, the Reports and Recommendations, and the timely objections thereto, the following order is entered:

AND NOW, this 28th day of March, 2011, it is
ORDERED that defendant Salemeha's motion to dismiss,
docket no. 24, is denied. The complaint is dismissed as to all
claims and defendants except for the deliberate indifference claim
asserted against defendant Salemeha, without prejudice to plaintiff
pursuing any state law claims in state court pursuant to 42
Pa.C.S. § 5103. The Reports and Recommendations are adopted as the
opinion of the Court.

BY THE COURT:



KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to counsel of record by ECF and by U.S. Mail to:

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